

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
SOUTHERN DIVISION

UNITED STATES OF AMERICA,)
)
)
Plaintiff,)
)
)
v.) Civil Action No.
)
)
ALVIN LENNON,)
)
)
Defendant.)

O R D E R

Pursuant to the governing law and in accordance with Local Rule 72.1 of the United States District Court for the Western District of Missouri, the petition herein for determination of defendant's mental condition was referred to the United States Magistrate Judge for preliminary review under § 636(b), Title 28, United States Code.

The United States Magistrate Judge has completed his preliminary review of the petition for determination of defendant's mental condition and has submitted a report and recommendation to the undersigned.

Defendant has filed exceptions to the report and recommendation of the United States Magistrate Judge in which he reaffirms his testimony at the hearing that he does believe he suffers from a mental illness; that he is voluntarily taking medication; that he does not believe the medication is helping him, however, he will continue to take the medication; that he is living in an open unit, and that he would commit himself to the mental health treatment unit with the help of his family. Furthermore, defendant reiterates his contention that he does not feel he would

pose a danger to others or the property of others, if he were released. In addition, the totality of the evidence is insufficient to establish that defendant is suffering from a mental disease or defect that warrants commitment under § 4246, and that if released (and not civilly committed pursuant to 18 U.S.C. § 4246), he would not pose a danger to other persons, or the property of others.

A review of the files and records in this case establishes that both the Risk Assessment Panel and Doctor Burstin, the clinical psychologist who performed an independent examination of the defendant, have diagnosed the defendant with a mental disease or defect. Both have acknowledged that because of his mental illness, defendant is at an increased risk for violent behavior and have noted defendant's admission that he hears voices directing him to harm others, when he is not receiving medication. In a Memorandum attached to a Report to the Court filed on April 26, 2010, Dwayne Walker, Lead Clinical Social Worker, reported that a request has been made for a transfer to the state of North Carolina, and they have denied the acceptance of the defendant for state placement. The expert opinion establishes that the defendant suffers from a mental disease or defect, and that his unconditional release would create a substantial risk of bodily injury to another person or serious damage to the property of another. State placement is not currently available. The Court finds by clear and convincing evidence that commitment under the provisions of § 4246, *Title 18, United States Code*, is appropriate. It is therefore

ORDERED that defendant's exceptions filed herein be, and they are hereby, CONSIDERED and OVERRULED. It is further

ORDERED that defendant be, and is hereby, committed under the provisions of § 4246,

supra.

S/ Richard E. Dorr
RICHARD E. DORR
United States District Judge

Date: 5/24/10